

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

HOOPA VALLEY TRIBE,

Plaintiff,

v.

UNITED STATES BUREAU OF
RECLAMATION; DEBRA ANNE
HAALAND, in his official capacity as
Secretary of the Interior; MARIA
CAMILLE CALIMLIM TOUTON, in her
official capacity as Commissioner of the
United States Bureau of Reclamation;
ERNEST A. CONANT, in his official
capacity as U.S. Bureau of Reclamation
California-Great Basin Regional Director;
and UNITED STATES DEPARTMENT OF
THE INTERIOR

Defendants.

Case No. 1:20-cv-01814-JLT-EPG

MOTION FOR EXTENSION OF TIME

On December 16, 2022, the Hoopa Valley Tribe (hereinafter, “Plaintiff”) filed a motion for preliminary injunction and noticed the motion for a hearing on January 20, 2023. ECF No. 108. Pursuant to Local Rules 230(c) and 230(d), Defendants’ response is due on December 30th and Plaintiff’s reply is due on January 9th. As noted in Defendants’ recently granted motion to extend the responsive pleading deadline, lead counsel for the Defendants has several other pressing litigation deadlines and is also having to schedule around internal review during the forthcoming holidays. Therefore, Defendants respectfully request that their deadline to respond to Plaintiff’s motion for preliminary injunction be extended by ten (10) days.

Pursuant to Fed. R. Civ. P. 6(b), the “court may, for good cause, extend the time ... with or without motion or notice ... if a request is made, before the original time or its extension

expires.” Courts routinely grant extensions when: (1) the party’s motion is timely, (2) the party “demonstrate[s] the ‘good cause’ required by Rule 6,” and (3) where “there [is] no reason to believe that [the party] was acting in bad faith or [is] misrepresenting his reasons for asking for the extension.” *Ahanchian v. Xenon Pictures, Inc.*, 624 F.3d 1253, 1260, (9th Cir. 2010). Here, Defendants can satisfy Rule 6(b)’s “non-rigorous standard,” because defense counsel has been working diligently on both a responsive pleading and a response to Plaintiff’s recently filed motion for preliminary injunction.¹ *Hibler v. BCI Coca-Cola Bottling Co. of Los Angeles*, No. 11-CV-298 JLS NLS, 2011 WL 4102224, at *1 (S.D. Cal. Sept. 14, 2011); *see also Michaud v. Baker*, No. 317CV00718MMDCBC, 2019 WL 1292679, at *1 (D. Nev. Mar. 20, 2019) (“[T]he practicalities of life (such as an attorney’s conflicting professional engagements or personal commitments such as vacations, family activities, illnesses, or death) often necessitate an enlargement of time to comply with a court deadline.”). Moreover, Defendants are not acting in bad faith by requesting an extension. *Id.*

Given the complexity of Plaintiff’s concurrence argument and the science surrounding adjustments to water flows, defense counsel needs additional time to prepare a response. Defense counsel has also had numerous other competing claims on his professional time, including post-trial briefing in another case and finalizing a responsive pleading in this case. Moreover, given the nature of Plaintiff’s concurrence argument and the high-profile nature of this case, additional review at both the Department of the Interior and the Department of Justice is required. Because of the various levels of review that must be completed and the intervening holidays, it would be

¹ Although undersigned counsel took a previously scheduled 5-day vacation between December 15 and December 20, he can attest that he has worked weekends and late evenings for several weeks (including working several hours from abroad) and will continue to work throughout the holidays, including working during two upcoming federal holidays.

very difficult for Defendants to file their response to Plaintiff's motion for preliminary injunction by December 30, 2022.

Accordingly, Defendants respectfully request that the Court grant this motion for extension of time and give Defendants until January 9, 2023, to file their response to Plaintiff's motion for preliminary injunction. If the Court grants Defendants' request, Defendants also ask that Plaintiff's reply deadline also be extended until January 19, 2023, to give it the full advantage of the time provided by Local Rule 230(d). Even with these requested extensions, the matter will be fully-briefed before the hearing that Plaintiff noticed for January 20th.

Counsel for the United States contacted Plaintiff's lawyers by email about the relief sought in this motion, and Mr. Somerville represented that Plaintiff is opposed to the relief requested herein.

Dated: December 22, 2022

Respectfully submitted,

TODD KIM
Assistant Attorney General

/s/ J. Scott Thomas
JEFFREY SCOTT THOMAS
Trial Attorney
U.S. Department of Justice
Natural Resources Section
United States Department of Justice
P.O. Box 7611
Washington, D.C. 20044-7611
Telephone: (202) 514-3553
Facsimile: (202) 305-0506
jeffrey.thomas2@usdoj.gov

Attorney for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on December 22, 2022, I electronically filed the **MOTION FOR EXTENSION OF TIME** with the Clerk of Court using the ECF system, which will automatically send email notification to the attorneys of record.

/s/ J. Scott Thomas

JEFFREY SCOTT THOMAS